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LETTER DATED 15 JUNE 1992 FROM THE PERMANENT REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

On behalf of the unified command established pursuant to Security Council resolution 84 (1950) of 7 July 1950, I have the honour to submit a report of the United Nations Command (UNC) concerning the maintenance of the Armistice Agreement of 1953 during the period from 1 January 1991 to 31 December 1991. The enclosed report describes UNC missions, outlines the Korean Armistice mechanism, and updates the last report submitted to the United Nations Security Council on 15 June 1991.

I request that this letter, together with the enclosed report of the United Nations Command, be circulated as a document of the Security Council.

(Signed) Edward J. PERKINS

Annex

Report of the activities of the United Nations Command, 1991

I. UNITED NATIONS COMMAND AND ITS MISSION

1. United Nations Security Council resolution 83 (1950) of 27 June 1950 determined that the surprise armed attack upon the Republic of Korea by the North Korean forces constituted a breach of the peace, and United Nations Security Council resolution 84 (1950) of 7 July 1950 called for United Nations Member States to make military forces and other assistance available to a unified command, under the United States for operations against North Korean armed aggression. Resolution 84 (1950) also requested that the United States designate the commander of the unified command and provide the Security Council with reports as appropriate on actions of the unified command. The United States and 15 other United Nations Member nations provided military forces to the unified command, which was later named the United Nations Command (UNC). Article 39 of the Charter of the United Nations assigns primary authority to the Security Council to take appropriate measures to maintain or restore international peace and security. This prompt and sustained "collective action" against North Korean aggression gained United Nations objectives through the Korean Armistice Agreement. The Commander-in-Chief, UNC (CINCUNC) signed the 27 July 1953 Korean Armistice Agreement on behalf of all the forces of the 16 United Nations Member nations and the Republic of Korea, which fought under the United Nations flag. Pursuant to paragraph 17 of the Armistice Agreement, all CINCUNC successors in command are responsible for compliance with and enforcement of the terms and provisions of the Armistice Agreement. UNC continues to carry out its functions and fulfil its obligations under the mandate of the Armistice Agreement. Of the original 16 United Nations Member nations that provided military forces to UNC during the Korean war, 9 nations are represented today. They are Australia, Canada, Colombia, France, New Zealand, the Philippines, Thailand, the United Kingdom of Great Britain and Northern Ireland and the United States. Officers from these nations participate in many UNC activities, including multinational investigations of serious Armistice violations, such as weapons firings and the presence of illegal weapons in the demilitarized zone (DMZ). The present report updates the UNC report to the United Nations Security Council on the maintenance of the Korean Armistice of 15 June 1991 (S/22705).

II. ARMISTICE MECHANISM AND PROCEDURES

2. The Korean Armistice Agreement, which is intended to be purely military in character and pertains solely to the belligerents in Korea, is to ensure a complete cessation of all hostilities in Korea by all armed forces of the opposing sides until "a final peaceful settlement is achieved". CINCUNC signed the Armistice Agreement on behalf of all military forces under the unified command, and the Commanders of the Korean People's Army (KPA) and the

Chinese People's Volunteers (CPV) signed the Agreement on behalf of the communist forces.

A. Military Armistice Commission

3. The Armistice Agreement established the Military Armistice Commission (MAC) "to supervise the implementation of this Armistice Agreement and to settle through negotiations any violations of this Armistice Agreement". The Commission is a joint organization composed of 10 military members: 5 senior officers from UNC and 5 senior officers from KPA/CPV. In accordance with paragraph 20 of the Armistice Agreement, CINCUNC appoints five senior officers drawn from the Republic of Korea, the United States, the United Kingdom and other United Nations Member nations represented in UNC. MAC meetings can be held at the request of either side in the Joint Security Area, more commonly known as Panmunjom, in the DMZ. The Armistice Agreement also provides for a joint secretariat to assist MAC in administrative matters. Under the Agreement, each side, UNC and KPA/CPV, appoints a Secretary, Assistant Secretary and other special assistants, as required, to perform functions assigned by MAC. A key part of this organization is the Joint Duty Office, located in the Joint Security Area, which maintains 24-hour telephone communications between the joint duty officers of each side. The joint duty officers also meet as required and serve as the basic channel of communications between the two opposing sides. There have been 459 plenary sessions of MAC and 507 meetings of MAC Secretaries since the Armistice Agreement was signed. MAC, or the Senior Member of either side, is authorized by paragraph 27 of the Armistice Agreement to dispatch joint observer teams to investigate reported violations of the Armistice Agreement that occur within the DMZ. The KPA/CPV, however, have frustrated this important investigative function by refusing to participate in more than 170 joint investigations proposed by UNC since April 1967.

B. Neutral Nations Supervisory Commission

4. The Neutral Nations Supervisory Commission (NNSC), as established in accordance with the Armistice Agreement, is composed of delegations from Sweden, Switzerland, Czechoslovakia and Poland, respectively. The term "neutral nations" in the Armistice Agreement is defined as nations whose combatant forces did not participate in the Korean war. NNSC's primary function is to conduct independent inspections and investigations of armistice-related developments and violations outside the DMZ and to report its findings to MAC. Although its basic mission and function have been drastically curtailed by KPA/CPV obstructions and subterfuge over the years, NNSC does provide a useful and stabilizing influence in the Joint Security Area, as well as a means for indirect communication between the two opposing sides of MAC. NNSC holds weekly meetings at Panmunjom to discuss armistice-related reports submitted by MAC.

C. Role of the Republic of Korea

5. A unique feature of the Korean Armistice Agreement is that no individual nation or Government is a signatory to the Agreement. CINCUNC signed the Armistice Agreement on behalf of UNC, consisting of the military forces from 16 United Nations Member nations and the Republic of Korea. During the Armistice negotiations and afterwards, at the specific request of the KPA/CPV side, the Government of the Republic of Korea, through UNC, furnished assurances that it would abide by the Armistice Agreement. Republic of Korea forces have always complied with the provisions of the Armistice Agreement and Republic of Korea senior military officers have served regularly on the Commission as MAC members for the last 38 years. Furthermore, a Republic of Korea general officer now serves as MAC spokesman (Senior Member), Republic of Korea forces now provide all of the UNC "DMZ police" and the Republic of Korea Army is assuming a larger role in Joint Security Area security force.

III. UNITED NATIONS COMMAND MILITARY ARMISTICE COMMISSION ACTIVITIES

6. Military Armistice Commission meetings are normally called to discuss serious violations of the Armistice Agreement and other significant Armistice Agreement-related issues. These meetings, as well as the 24-hour Joint Duty Office "hotline" between the two sides, serve to prevent further escalation of military tension as a result of accidental incidents and misunderstandings. Serious charges of Armistice violations are passed telephonically through the Joint Duty Office at Panmunjom as a means to resolve violations. The Commission is a proven means of communication between the opposing military commanders during crisis, as demonstrated by its continued use by both sides.

A. Republic of Korea Senior Member

7. In accordance with paragraph 20 of the Korean Armistice Agreement, CINCUNC appointed Major General Hwang Won-tak, Republic of Korea Army, as the UNCMAC Senior Member, effective 25 March 1991. The KPA/CPV component of MAC was officially notified of General Hwang's appointment through a joint duty officers meeting held at Panmunjom on 25 March 1991. Acting on instructions from his superiors, the KPA joint duty officer rejected General Hwang's credentials under the pretext that the Republic of Korea Army is neither a signatory to the Armistice Agreement nor a member of UNC. UNC has told the KPA/CPV side that paragraph 20 of the Armistice Agreement does not stipulate the nationality of MAC members, exclude membership from any particular country or state which country provides the senior spokesman. Opposing commanders have discretionary authority to appoint their respective representatives to the Commission, and such appointments cannot be subject to review or approval by the other side. There have been no formal MAC plenary meetings since appointment of the Republic of Korea general officer as the UNCMAC Senior Member. However, the Joint Duty Office "hotline" betwen commanders of the opposing sides is still used by both sides and MAC Secretaries continue meetings to discuss and resolve Armistice-related issues.

B. UNC remains issue

8. In June 1991, a North Korean parliamentary delegation returned 11 sets of "United States war remains" to a United States congressional delegation led by Senator Bob Smith at Panmunjom, as agreed earlier between the two parties. MAC Secretaries arranged details for the repatriation ceremony according to the established custom.

9. UNC has maintained that KPA should return UNC war remains through the MAC Secretaries in accordance with a 1954 agreement subsequent to the Armistice Agreement, but KPA has disagreed consistently with this UNC position and contended that it has no obligation, under the mandate of the Armistice Agreement, to search for, disinter and return UNC war remains through the MAC Secretaries (see appendix).

10. In December 1991, KPA officers informally stated that their side had discovered 30 UNC war remains and that they would repatriate the remains in the near future. The KPA repatriated 15 sets of remains on 13 May 1992 and another 15 sets of remains are expected to be repatriated in late May 1992. The details of these operations are being arranged by the MAC Secretaries. Discussions concerning regularizing this process are ongoing.

C. MAC Secretaries meetings

11. During 1991, UNC participated in one MAC meeting and four MAC Secretaries meetings. At the MAC meeting held in February 1991, KPA again demanded that UNC cease its annual training exercise "Team Spirit", despite the fact that the Armistice Agreement does not address military training exercises. At these meetings, UNC continues its search for measures, acceptable to both sides, that would help to build mutual confidence, thereby easing military tension on the Korean Peninsula (see appendix). According to the established practice, two drowning victims from the Democratic People's Republic of Korea as well as one Republic of Korea drowning victim were repatriated through MAC Secretaries meetings.

IV. NORTH-SOUTH RELATIONS

12. The simultaneous entry of the Democratic People's Republic of Korea and the Republic of Korea into the United Nations in September 1991 has no effect on the status of UNC and does not change its role. UNC continues to perform an important peace-keeping role in the Republic of Korea, particularly in maintaining the Armistice, until an effective and enduring peace is concluded through political dialogue. UNC notes, with pleasure, progress the two sides have made in two important areas: the 13 December 1991 South-North Accord on Reconciliation, Non-Aggression and Exchanges and the Korean Peninsula Denuclearization Joint Declaration of 31 December 1991. The South-North Accord on Reconciliation, Non-Aggression and Exchanges with its non-aggression statement and implementing committees is a good starting-point, but the

critical question is whether the two sides will work towards full implementation. Concerning the nuclear issue, the Democratic People's Republic of Korea must abandon its nuclear-weapons programme, which poses the most serious threat to security on the peninsula and throughout north-east Asia. The Democratic People's Republic of Korea's acceptance of full-scope nuclear safeguards under the auspices of the International Atomic Energy Agency and the South-North agreement will represent large steps in resolving this problem. As a confidence-building measure, the Democratic People's Republic of Korea also should move its armed forces out of a forward deployed, offensive posture and stop deployment of advanced weapons such as Scud-type missiles, both serious threats to the Republic of Korea. While not involved directly in the South-North dialogue or negotiations, UNC has provided administrative and security assistance to these talks and contacts held in the Joint Security Area, Panmunjom.

V. CONCLUSIONS

13. For more than 38 years, MAC has served as the only official channel of communication between the opposing military commanders in Korea. The most positive aspect is that MAC continues to operate and is used by the two opposing military commanders to defuse serious incidents, prevent misunderstandings and avoid resumption of hostilities in Korea. The military commanders have no mandate to resolve political issues, but UNC and UNCMAC will continue efforts to maintain the stable environment which will help enable the Republic of Korea and the Democratic People's Republic of Korea to reach agreement on a political settlement which can form the basis of a durable peace arrangement.

Appendix

UNC confidence-building measures, new security arrangements at Panmunjom and the Korean war remains issue

I. UNITED NATIONS COMMAND INITIATIVES

1. Despite the continuing misuse of MAC by the Democratic People's Republic of Korea for distorted political propaganda purposes, UNC continues to approach meetings of MAC and its subordinate agencies in the positive manner intended by the Armistice Agreement. UNC has proposed several confidence-building measures that would assist in reducing military tensions if taken seriously by the Democratic People's Republic of Korea.

2. At the 459th MAC meeting, held on 13 February 1991, the Senior Member, UNCMAC addressed Armistice-related confidence-building measures. They included:

(a) Restoring Joint Observer Teams to investigate alleged serious Armistice violations;

(b) Prior notification of and invitation to observe major training;

(c) Improving security arrangements in the Joint Security Area, Panmunjom;

(d) Stopping propaganda operations in the DMZ;

(e) Returning the DMZ to a true buffer-zone;

(f) Returning UNC war remains.

3. Paragraph 27 of the Korean Armistice Agreement stipulates that: "The Military Armistice Commission or the Senior Member of either side thereof is authorized to dispatch Joint Observer Teams to investigate violations of this Armistice Agreement in the demilitarized zone ...". Paragraph 24 of the Armistice Agreement stipulates, in part, that the general mission of MAC "shall be to settle through negotiations any violations of this Armistice Agreement". The Joint Observer Teams clearly constitute an investigative arm of MAC. Records of the Commission show that since 1966 UNC proposed the dispatch of Joint Observer Teams on more than 130 occasions to investigate serious armistice violations by the Democratic People's Republic of Korea. These violations included armed attacks, intrusions across the military demarcation line and the construction of illegal infiltration tunnels under the DMZ. On every occasion except one, in 1967, the Democratic People's Republic of Korea refused or failed to participate in Joint Observer Team investigations proposed by the UNC. For example, the Democratic People's Republic of Korea refused to participate in a Joint Observer Team investigation of the fourth illegal infiltration tunnel discovered in the DMZ in March 1990.

4. Contrary to the accusations by the Democratic People's Republic of Korea, military training exercises per se are not addressed by the Armistice Agreement and, therefore, cannot constitute a violation of that Agreement. In contrast, however, secret exercises such as those routinely conducted by the Democratic People's Republic of Korea cause genuine concern. UNC has repeatedly proposed mutual prior notification of major military training exercises and the exchange of observers to preclude possible misunderstandings. To demonstrate its good faith, UNC provided a prior notification to the Democratic People's Republic of Korea on 25 January 1991 that United States/Republic of Korea joint military exercise "Team Spirit 91" would be conducted for about two weeks beginning in mid-March 1991. At the eame time, the Government of the Republic of Korea invited the Democratic People's Republic of Korea and Chinese military representatives to come and observe the exercise for themselves, to illustrate it does not pose a threat to the Democratic People's Republic of Korea or heighten tensions on the Korean peninsula. At the same time the Senior Member, UNCMAC, invited the Neutral Nations Supervisory Commission members to come and observe the exercise. UNC pointed out that military forces throughout the world regularly conduct training exercises and, furthermore, that the annual training exercise "Team Spirit", being conducted for the sixteenth consecutive year, well south of the DMZ, posed absolutely no threat to the Democratic People's Republic of Korea. The Democratic People's Republic of Korea again rejected the Republic of Korea Government's invitation to come and observe the training exercise.

5. Since November 1987 MAC Secretary-level informal staff officer talks have been conducted as a means to facilitate discussions and search for ways to improve security arrangements in the Joint Security Area Panmunjom. Five such meetings were held during 1991, with the last session on 18 September 1991. These sessions have focused on four items that both sides have agreed to try to implement: eliminating all military facilities and guard posts from the Joint Security Area; removing heavy and automatic weapons from the Joint Security Area; reducing, disarming and controlling the guard forces; and inspections and verifications. So far, Democratic People's Republic of Korea intransigence on an inspection and verification system has stymied progress of these talks.

II. KOREAN WAR REMAINS ISSUE

6. Paragraph 13 (f) of the Armistice Agreement stipulates, in part, that, within a definite time-limit after the Armistice Agreement becomes effective (27 July 1953), graves registration personnel should proceed to the burial places of the deceased military personnel of the opposing side, based on the information provided, and recover and evacuate the Korean war remains. At the 47th MAC meeting held on 17 August 1954, both sides agreed to the "Understanding on Administrative Details for the Delivery and Reception of Bodies of Military Personnel of Both Sides". The "Understanding" on the return of Korean war remains calls for each side to "disinter" and transport the remains to the designated point of exchange in the DMZ. In accordance with this "Understanding" hundreds of Korean war remains were exchanged. This

exchange programme was terminated by the agreement of both sides on 30 October 1954 with the exception of its paragraph 20, which stipulates, "In the event that either side discovers in its territory bodies of military personnel belonging to the other side after the termination of this Understanding, the delivery and reception of such bodies shall be arranged through the Secretaries of both sides of MAC". Each side is, therefore, obligated to return Korean war military remains when they are "discovered" in accordance with paragraph 20 of the "Understanding", which is still valid.

7. In February 1986, KPA informally notified UNC of its willingness to search for and disinter "United States" war remains in the Democratic People's Republic of Korea if so requested by the United States and suggested a Democratic People's Republic of Korea-United States "Commission for the Exhumation, Delivery and Receipt of the United States Remains". The UNCMAC Senior Member officially responded that the remains issue involved the entire UNC - not just the United States and that the MAC should handle the remains issue and a new agency suggested by the Democratic People's Republic of Korea was not necessary. The KPA/CPV Senior Member replied that Korean war military remains would be returned through the MAC Secretaries when "discovered" in accordance with paragraph 20 of the "Understanding". KPA MAC has insisted that, "searching for and disinterment of war remains" are outside the purview of MAC. UNC has maintained that UNC Korean war remains should be repatriated through the MAC Secretaries when "discovered". KPA continues to maintain it has no obligation under the mandate of the Korean Armistice Agreement "to search for and exhume" UNC war remains. However, as noted above, some remains of persons missing in action have been returned and discussions on these issues are ongoing.